

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

SPECTRUM WT, *et al.*,
Plaintiffs,

v.

WALTER WENDLER, in his individual
capacity and his official capacity as the
President of West Texas A&M University, *et*
al.,
Defendants.

Case No.: 2:23-cv-00048-Z

Hon. Matthew J. Kacsmaryk

**APPENDIX TO PLAINTIFFS' RESPONSE TO
DEFENDANTS' PRIORITY MOTION TO DISMISS FOR
LACK OF SUBJECT MATTER JURISDICTION**

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Dated: September 8, 2025

Respectfully submitted,

/s/ JT Morris.

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CERTIFICATE OF SERVICE

I hereby certify that on September 8, 2025, a true and correct copy of the foregoing document was transmitted via using the CM/ECF system, which automatically sends notice and a copy of the filing to all counsel of record.

/s/ JT Morris
JT Morris
FOUNDATION FOR INDIVIDUAL
RIGHTS AND EXPRESSION

EXHIBIT 1

DECLARATION OF

JOHNATHAN-JAYCE FANELLI

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
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**DECLARATION OF
JOHNATHAN-JAYCE FANELLI**

Under 28 U.S.C. § 1746, I, Johnathan-Jayce Fanelli, declare as follows:

1. I am over the age of 18 and have personal knowledge of the facts in this declaration.

2. I am a citizen of the United States of America.

3. I am an undergraduate student enrolled at West Texas A&M University (“West Texas A&M”).

4. I am also the President of Spectrum WT, a plaintiff in the present case. Since becoming President of Spectrum WT during Fall semester 2024, I have served as the organization’s representative in litigation, including consulting with its attorneys on behalf of the organization’s members. I have been a member of Spectrum WT since Fall semester 2023.

5. Spectrum WT is a recognized student organization in good standing at West Texas A&M. It has 37 members who are undergraduate or graduate students enrolled at West Texas A&M. It has existed since around 2009.

6. Spectrum WT's mission is to provide a safe space for LGBTQ+ students and allies to come together, to raise awareness for the LGBTQ+ community at West Texas A&M, and to promote diversity, support, and acceptance on campus and in the surrounding community.

7. One of the ways Spectrum WT and its members desire to promote Spectrum WT's mission is hosting charity drag performances on campus.

8. Spectrum WT sought to hold its first annual charity drag show in Legacy Hall at West Texas A&M on March 31, 2023, at which some of our members intended to perform.

9. On March 20, 2023, President Wendler canceled the performance via an email to all students, faculty, and staff pledging that there would be no drag show on the university's campus, as it was "not possible" to have a "harmless" drag show and drag shows were discriminatory.

10. Spectrum WT again reserved Legacy Hall for a March 22, 2024 charity drag show performance, at which members of Spectrum WT intended to perform and other members of Spectrum WT—and other students who are not members—intended to attend.

11. However, on March 18, 2024, President Wendler cancelled Spectrum WT's 2024 charity drag show, again by sending a campus-wide email.

12. Spectrum WT and its members want to hold drag shows at West Texas A&M because it is an effective way to express the views set out in the organization's mission and reach others on campus. Members and their invitees perform for an

audience in costume, with choreography, music, and spoken word. Each performance is unique, collectively celebrating the diversity of the LGBTQ+ community.

13. Spectrum WT and its student members intend to hold future drag shows at West Texas A&M, including in Legacy Hall. Our leadership regularly discusses planning and hosting a drag show in Legacy Hall, and we are prepared to promptly apply to reserve Legacy Hall—or, if Legacy Hall is already booked, another campus venue—for a drag show as early as October 2025, and complete all of West Texas A&M's reservation requirements.

14. Spectrum WT intends that the any future drag show be PG-13, and free of alcohol and music with profanities.

15. I have invited past-president of Spectrum WT Barrett Bright to perform in any future Spectrum WT drag show. I also communicate with Bright on occasion and seek his input about Spectrum WT business.

16. Spectrum WT has not attempted to hold another drag show on West Texas A&M's campus since March 2024 because President Wendler's drag ban remains in effect.

17. President Wendler's cancellation of Spectrum WT's two previously-planned drag shows, described above, makes clear than any effort by Spectrum WT or its members to hold a drag show in Legacy Hall, or any other space on campus, would result in another cancellation. Because Spectrum WT's members are college students, we have limited time and resources to devote to planning a campus drag

show, only to have the university or President Wendler cancel it at the last-minute again.

18. President Wendler's drag ban also deprives us of facilities that we pay for with our student fees. Each semester, each of our members pays a fee that funds the Jack B. Kelley Student Center—including Legacy Hall.

19. As a recognized student organization, cancellation of Spectrum WT's events has harmed its members' ability to express themselves. The organization's mission seeks to promote LGTBQ+ diversity, support, and acceptance on campus. Banning drag shows on campus hinders the ability of Spectrum WT, Spectrum WT's members, and the performers Spectrum WT would invite, like past-president and alumni Bright, to reach their intended audience, members the of West Texas A&M community.

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge.

Dated: September 8, 2025



Johnathan-Jayce Fanelli

EXHIBIT 2

DECLARATION OF BARRETT BRIGHT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
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SPECTRUM WT, *et al.*,
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Defendants.

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**DECLARATION OF
BARRETT BRIGHT**

Under 28 U.S.C. § 1746, I, Barrett Bright, declare as follows:

1. I am over the age of 18 and have personal knowledge of the facts in this declaration.

2. I am a Plaintiff in the present case and a U.S. citizen of the United States of America.

3. I was an undergraduate student at West Texas A&M University (“West Texas A&M”) from August 2020 until May 2024, when I graduated with a Bachelor of Science in Civil Engineering.

4. During the 2022–2023 and 2023–2024 school years, I was the President of Spectrum WT, a plaintiff in the present case. I was a member of Spectrum WT for all four years I attended West Texas A&M.

5. During my time as a member and President, Spectrum WT was a recognized student organization in good standing at West Texas A&M with 20

members who were undergraduate or graduate students enrolled at West Texas A&M. It has existed since around 2009.

6. During my time as a member and President, Spectrum WT's mission was to provide a safe space for LGBTQ+ students and allies to come together, to raise awareness for the LGBTQ+ community, and to promote diversity, support, and acceptance on campus and in the surrounding community.

7. I understand that Spectrum WT is still a registered student organization, with the same mission as it had when I was a student member.

8. I still communicate with some of Spectrum WT's student members about the organization, including its current president, Johnathan-Jayce Fanelli.

9. One of the ways Spectrum WT and its members desire to promote Spectrum WT's mission is hosting charity drag performances on campus.

10. Spectrum WT sought to hold its first annual charity drag show in Legacy Hall at West Texas A&M on March 31, 2023, which had been tentatively confirmed by West Texas A&M on March 14, 2023, awaiting only a list of performers and their songs—the final step necessary to move to “Confirmed” status. We intended to host the PG-13 show in Legacy Hall because it is an event space the university holds out as suitable—and frequently used—for stage performances. Because it is an enclosed venue, only people who bought tickets to see the performance would be in attendance.

11. On March 20, 2023, President Wendler canceled the performance via an email to all students, faculty, and staff pledging that there would be no drag show on

the university's campus, as it was "not possible" to have a "harmless" drag show and drag shows were discriminatory.

12. On March 24, 2023, I, Marcus Stovall, and Spectrum WT filed this lawsuit to protect our First Amendment rights to engage in protected expression by performing at a charity drag show event at West Texas A&M. We also sought a temporary restraining order and preliminary injunction to allow the show to go on in Legacy Hall on March 31, 2023, as originally intended.

13. On March 31, 2023, President Wendler's drag show ban was still in place, so Spectrum WT held its charity drag show at a public park in Amarillo, around a 20 minute drive from campus and our intended audience. I performed in that show, along with other members of Spectrum WT.

14. I was also president of Spectrum WT when it again reserved Legacy Hall for a March 22, 2024 charity drag show performance. I and other members of Spectrum WT intended to perform in the show. Other members of Spectrum WT—and other students who are not members—intended to attend the performance. However, on March 18, 2024, President Wendler cancelled Spectrum WT's 2024 charity drag show, again by sending a campus-wide email. I received a copy of that email. A copy of the email is attached as Exhibit A.

15. During my time as a member and President, Spectrum WT intended to hold drag shows because it is an effective way to express the views set out in the organization's mission and reach others on campus. Members and their invitees perform for an audience in costume, with choreography, music, and spoken word.

Each performance is unique, collectively celebrating the diversity of the LGBTQ+ community.

16. Spectrum WT and its student members intend to hold future drag shows at West Texas A&M, including in Legacy Hall, if President Wendler's drag ban is lifted or enjoined. I have been invited by Spectrum WT and intend to perform if Spectrum WT hosts a campus drag show in the near future. But I cannot until the drag ban is lifted or enjoined.

17. As a recognized student organization, the cancellation of Spectrum WT's harmed its members' ability to express themselves, including my own. As long as the ban continues, I cannot accept Spectrum WT's invitation to perform at a future drag show. That is hindering my ability to express myself in support of and in solidarity with the organization and its mission, and help Spectrum reach their intended audience, members of the West Texas A&M community, which as an alumni, I also belong to.

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge.

Dated: September 8, 2025



Barrett Bright

EXHIBIT A
TO DECLARATION OF
BARRETT BRIGHT



Office of the President

visio | veritas | valor

To: Faculty, Staff, and Students

From: Walter V. Wendler, President

Date: March 18, 2024

RE: Spectrum WT Application for On-Campus Drag Show

Spectrum WT asked three courts to prevent the denial of their pending application to conduct an on-campus drag show. I did not rule on the application out of respect for the judicial process. On March 15th, a unanimous United States Supreme Court rejected the attempt to prevent another denial.

And so, the Spectrum WT application to conduct an on-campus drag show is denied for the reasons given previously and for the reasons further explained in court filings and those provided by the courts themselves.

Moreover, it is denied because S.B. 12 went into effect as a Texas law in September 2023, as well as a number of other compelling considerations.

When the court makes a final decision, it will be implemented.

Walter V. Wendler

President

806.651.2100

president@wtamu.edu

If you need email content or attachments in alternate formats for accessibility, please send your contact information and the details of your request to accessibility@wtamu.edu.